

1 HONORABLE ROBERT S. LASNIK
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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

9 EXPEDIA, INC., and HOTELS.COM, L.P.,
10 Plaintiffs,

v.

12 PRICELINE.COM INCORPORATED,
13 Defendant.
14

Case No.: 2:09-cv-00712-RSL

**DECLARATION OF BRETT KELLER IN
SUPPORT OF DEFENDANT'S MOTION
TO STAY AND DISMISS**

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DECLARATION OF BRETT KELLER

BRETT KELLER, under penalty of perjury, declares as follows:

1 1. I am the Chief Marketing Officer for Priceline.com Incorporated (hereinafter
 2 “Priceline”). In that capacity, I oversee the development and dissemination of Priceline’s
 3 advertising including television commercials for Priceline’s Name Your Own Price® hotel
 4 booking service. I submit this declaration, based upon my personal knowledge, in support of
 5 Priceline’s motion to stay and dismiss the false advertising and unfair competition claims
 6 asserted by Expedia, Inc. and Hotels.com (collectively “Expedia”).

7 2. In October 2008, Priceline developed the television commercial entitled
 8 “Travelnapping” in which Priceline’s longtime spokesperson William Shatner in his recurring
 9 role as “The Negotiator” abducts a vacationing couple to tell them that they could have saved up
 10 to 50% over published price travel sites if they had booked their hotel through Name Your Own
 11 Price. Attached hereto as **Exhibit A** is a DVD containing a true and correct copy of the
 12 Travelnapping commercial.

13 3. On or about December 25, 2008, Travelnapping first aired on television in the
 14 United States. Attached hereto as **Exhibit B** is a storyboard for Travelnapping which indicates,
 15 for example, the commercial aired on the National Geographic Channel on December 29, 2008.

16 4. Travelnapping was broadcast on TV stations nationwide in January, February
 17 and March 2009. During this period, Travelnapping also was disseminated nationwide via
 18 Priceline’s website www.priceline.com.

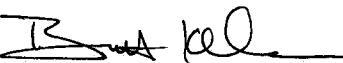
19 5. On or about March 16, 2009, a second version of Travelnapping that included a
 20 reference to “Expedia” in the voiceover first aired on national television in the United States.
 21 This version of Travelnapping was broadcast in March, April, May and June 2009. A true and
 22 correct copy of this version of the Travelnapping commercial also appears on the DVD attached
 23 as Exhibit A.

24
 25 DECLARATION OF BRETT KELLER ISO
 DEFENDANT’S MOTION TO STAY AND DISMISS - 1
 Case No. 2:90-cv-00712-RSL

CORR CRONIN MICHELSON
BAUMGARDNER & PREECE LLP
 1001 Fourth Avenue, Suite 3900
 Seattle, Washington 98154-1051
 Tel (206) 625-8600
 Fax (206) 625-0900

1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct to the best of my knowledge, information and belief.

3 Executed at Norwalk, Connecticut this 10th day of September, 2009.

4 By: 
5 Brett Keller

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DECLARATION OF BRETT KELLER ISO
DEFENDANT'S MOTION TO STAY AND DISMISS - 2
Case No. 2:90-cv-00712-RSL

CORR CRONIN MICHELSON
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EXHIBIT A



EXHIBIT B



PRODUCT Priceline.com Hotel
MARKET National
PROGRAM Dog Whisperer
CODE # 081218270
TITLE Travel-Napping: Couple Thrown Into Van

LENGTH :30
STATION NGC
DATE 12/29/2008
TIME 08:33 PM
REV OF # 090508833



WIFE: It's good to get away. (SFX: ENGINE REVVING)



(SFX: SCREECHING) (MUSIC IN)



(MUSIC)



(SFX: SCREAM)



(SFX: ENGINE ROARING)



(AUDIO LOGO) FEMALE SINGERS
(IN UNISON): Priceline Negotiator.



WIFE: What is this?



PRICELINE NEGOTIATOR: This is a travel-napping, and I want you to stop wasting your money.



WIFE: But we've got a good deal.



NEGOTIATOR: I can find a better deal than that in my sleep, if I slept. (SFX: SCREECHING)

SUPER: PROFESSIONAL DRIVER ON A CLOSED COURSE.



At Priceline, you name your own price and save up to half off on hotels.

SUPER: SAVINGS APPLY TO PRICELINE'S NAME YOUR OWN PRICE® SERVICE WHICH IS DIFFERENT FROM...



(SFX: SQUEAK, RIP, OUT)
HUSBAND: That's way less than the price we found.

...OTHER FIXED PRICE TRAVEL SITES. EXACT HOTEL IS SHOWN ONLY AFTER PURCHASE. ALL SALES ARE FINAL...

VIDEO ALSO AVAILABLE IN ANALOG & DIGITAL FORMATS

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NEGOTIATOR: Negotiation
accomplished.



(SFX: ENGINE REVVING)



(MUSIC OUT)

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